

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1434 of 2000

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

PRAKASH HIGHER SECONDARY SCHOOL

Versus

STATE OF GUJARAT, THROUGH 3RD SPECIAL LAND ACQUISITION

Appearance:

1. Special Civil Application No. 1434 of 2000
MR DC DAVE for Petitioner No. 1
MR GOVERNMENT PLEADER for Respondent No. 1,3
MR DEEPAK DAVE for MR AD OZA for Respondent No. 2
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CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 22/12/2004

ORAL JUDGEMENT

1. The petitioner has by of this petition prayed
that respondents be directed to forthwith withdraw the

decision dated 11th December, 1999 wherein it is stated that petitioner shall shift the school from existing premises to its erstwhile premises, and if the same is not done, no grant would be made available for the purpose of payment of salary to the employees.

2. The short facts of the case are that the petitioner is recognized Higher Secondary School having its premises at Memnagar near Gurukul since 1991. It is the case of the petitioner that in view of the Commercial development of the surrounding area, an application was made for shifting the school premises. The petitioner further submitted that alongwith the application, detailed reasons were assigned for shifting the school premises. The petitioner further submitted that vide communication dated 17th May, 1999, the petitioner was granted permission to shift the school premises from its existing premises to its new premises at Sola Road. The petitioner further submitted that thereafter in the month of May, 1991, the school premises was shifted and as a result thereof, the new academic term commenced from 1999-2000. The petitioner's grievance is that without issuing showcause notice, respondent no. 3 vide communication dated 1st December, 1999 conveyed the petitioner to shift its school to its erstwhile premises and that if it is not done, no grant would be made available for payment of salary to the employees. Hence, the petitioner has no other alternative but to approach this Court by way of this petition.

3. I have heard the learned advocate for the respective parties and have perused the relevant record. On going through the record, it appears that pursuant to the permission granted by respondents on 17th May, 1999, the petitioner was allowed to shift to new premises. However, almost after seven months, the respondents have cancelled the said order on the basis of fax message dated 25th November, 1999 received from the Commissioner of schools. Moreover, the said order cancelling the permission to shift to new premises was passed without issuing notice to the petitioner.

3.1. Before parting, Mr. Deepak Dave learned advocate for the respondents contended that in view of the fax message dated 25th November, 1999, serious allegations are alleged against the petitioner.

4. Looking to the peculiar facts and circumstances of the case, in my opinion, only on the ground of violation of principles of natural justice, the order at annexure-D is required to be quashed and set aside.

4.1. Accordingly, the order at annexure-D is quashed and set aside. However, the respondent authorities shall be at liberty to take appropriate action against the petitioner on the basis of the allegations that have been levelled against the petitioner as per the fax message dated 25th November, 1999. The respondent authorities shall take decision in the matter after following the necessary procedure prescribed by law.

5. With the above observations and directions, the petition stands disposed of. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]
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